

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT**

**NASHVILLE, TENNESSEE**

**September 5, 2000**

**IN RE:**

**BELLSOUTH TELECOMMUNICATIONS, INC.**

**TARIFF TO ADD LANGUAGE TO THE N11 TARIFF**

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**DOCKET NO. 99-00596**

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**ORDER DENYING TARIFF**

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This matter came before the Tennessee Regulatory Authority ("the Authority") at a regularly scheduled Authority Conference held on February 15, 2000 for consideration of the tariff filing by BellSouth Telecommunications, Inc. ("BellSouth") to Add Language to the N11 Tariff.

BellSouth originally filed Tariff No. 99-00596 (the "Tariff") with the Authority on August 16, 1999 with a proposed effective date of September 15, 1999. At a regularly scheduled Authority Conference held on September 14, 1999, the Directors suspended the Tariff through November 15, 1999. The Tariff was subsequently re-suspended through January 14, 2000 and again through February 28, 2000 to further review the proposed language. No interested person intervened in this proceeding.

The existing N11 tariff allows an N11 provider to apply a charge to callers within the local calling area for services delivered in response to calls to an N11 number. Under the existing tariff, BellSouth provides billing and collection of the N11 provider's charges to all of its subscribers who call N11. In the pending tariff, BellSouth proposed to cease the billing and collection service that it currently provides when N11 service is resold.

The language BellSouth seeks to add would allow BellSouth to discontinue its billing and collection service for resold N11 service. In support of its position, BellSouth asserts that it has no duty or obligation to resell billing and collection services to competing local exchange carriers ("CLECs") because such services are not telecommunications services pursuant to federal law.

After consideration of the record in this matter, the Directors unanimously denied the Tariff and found:

1. BellSouth has overlooked the categorization of billing and collection as a network element. The Federal Communications Commission ("FCC") held that incumbent local exchange carriers ("ILECs") must provide network elements along with all their features and functions so that new entrants may offer services that compete with those offered by ILECs as well as new services. *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, 11 FCC Rcd. 15499, ¶¶ 259-264, 865-877 (August 8, 1996) (First Report and Order). In its Local Competition Order, the FCC determined network elements to be a facility or equipment used in the provision of telecommunications services. The FCC also determined that network elements include features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications services. Further, the FCC found that the only limitation on a network element was that it "must be used in the provision of a telecommunications service." The FCC commented that a LEC provides telecommunications service in several ways including billing and collection. The FCC opined that the only limitation that the statute imposes on the definition of a network element is that it must be used in the provision of a telecommunications service, not only through network

facilities to serve as a basis for a particular service or to accomplish physical delivery, but also through information that enables providers to offer service on a commercial basis to consumers *Id.* ¶ 261.

2. Despite BellSouth's assertions in this docket, BellSouth has previously filed statements that support a different conclusion. In a brief filed in Docket No. 96-00067 BellSouth stated:

Section 251(c)(4) requires incumbent local exchange carriers to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers. Thus, the services to be resold are the same retail services that the incumbent local exchange carrier provides to its subscribers.

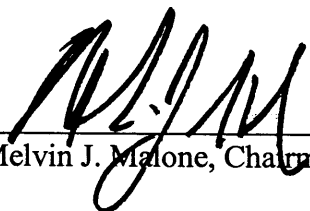
*The Avoidable Costs of Providing Bundled Services for Resale by Local Exchange Telephone Companies*, Docket No. 96-00067, Brief of BellSouth at p.2 (filed April 12, 1996). Because the billing and collection function provided for N11 is clearly a tariffed retail service available to subscribers through BellSouth's General Subscribers Services Tariff, according to BellSouth's statement above, billing and collection should be a service available for resale.

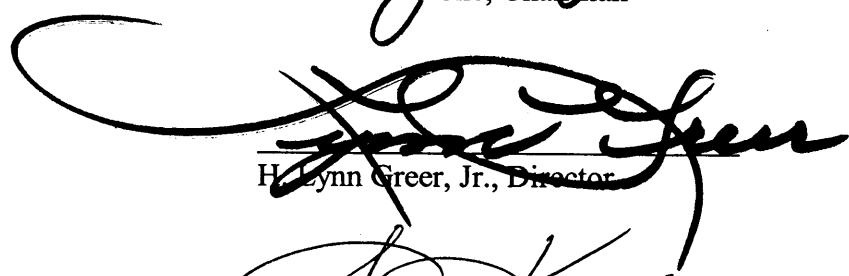
3. In the Authority's January 23, 1997 Order in the AT&T/BellSouth/MCI arbitration (Docket No. 96-01152 and 96-012710, the Arbitrators sought to isolate services that should be excluded from resale from the universe of all available services. The Arbitrators ordered "[t]hat all services provided by BellSouth, with the exception of short-term promotions should be, and hereby are, made available by BellSouth for resale to AT&T and MCI." *See In the matter of the Interconnection Agreement Negotiation Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252*, TRA Docket No. 96-01152, and *In the matter of the Petition of MCI Telecommunications Corporation for Arbitration of Certain Terms and Conditions of a Proposed Agreement with*

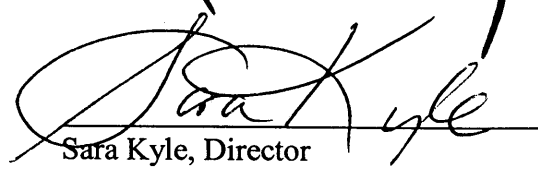
*BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*, TRA Docket No. 96-01271, Second and Final Order of Arbitration Awards, p. 14 (January 23, 1997). This conclusion is consistent with the goal of establishing an environment where resale of all ILEC services provides an avenue to the introduction of competitive alternatives.

4. In order for resale to be competitive, services to be resold must mirror precisely the exact retail services that BellSouth provides at retail to its subscribers. To hold otherwise, invites future attacks on any number of retail service offerings that could arguably be construed as something other than a transmission among or between points. It is unlikely that a CLEC would have a billing relationship with a large number of telephone subscribers at this point. Therefore, it would be difficult and likely expensive for a CLEC to bill and collect for N11 service from BellSouth customers.

**IT IS THEREFORE ORDERED THAT THE TARIFF BE DENIED.**

  
Melvin J. Malone, Chairman

  
H. Lynn Greer, Jr., Director

  
Sara Kyle, Director

ATTEST:

  
K. David Waddell, Executive Secretary